[The Deputy Chairman]

The motion was adopted.

KUMARI SAROJ KHAPARDE: Madam, I introduce the Bill.

THE DEPUTY CHAIRMAN: It has been introduced.

I. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE NATIONAL SECURITY (AMENDMENT) ORDINANCE, 1987

II. THE NATIONAL SECURITY (AMENDMENT) BILL, 1987

III. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) ORDINANCE, 1987

IV. THE TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) BILL, 1987

THE DEPUTY CHAIRMAN: No we have two Bills and two Resolutions. We are going to discuss them together. First, the Statutory Resolution seeking disapproval of the National Security (Amendment) Ordinance, 1987 and the National Security (Amendment) Bill, 1987. Shri Atal Bihari Vajpayee.

SHRI JASWANT SINGH (Rajasthan): Madam, I am on a point of order. You have stated just now that the two Statutory Resolutions and these two Bills following from the Ordinances are to be discussed together. The Business Advisory Committee.....

THE DEPUTY CHAIRMAN: Go ahead.

SHRI JASWANT SINGH: I am waiting for the disturbances to subside. I cannot draw your attention unless the disturbances subside.

THE DEPUTY CHAIRMAN: I am listening.

SHRI JASWANT SINGH: The point is that in the Business Advisory Committee for these two measures time was allocated separately three hours and two hours respectively for discussion on each subject.

My second point is, Madam, that to lump together a Statutory Resolution on the National Security (Amendment) Ordinance of 1987 and the consequent Amendment Bill and the Terrorist and Disruptive Activities (Prevention) Bill of 1987 along with the Ordinance is not to do justice to either of the subjects also not to do justice to those Members that are expected to participate or to the questions themselves.

Finally, my third objection is that whereas the National Security (Amendment) Bill relates specifically and particularly to the State of Punjab, so far as the subject of Terrorist and Disruptive Activities (Prevention) Ordinance and the second Bill are concerned, it is much more comprehensive, it covers the entire country and its effects are going to be much more profound. Therefore, for the House to discuss all these four measures put together, in one lot is to do injustice to each of them and to each of the Members also. I oppose this violation of a decision taken in the Business Advisory Committee and the specific time that are seperately allotted to them.

THE DEPUTY CHAIRMAN: When this matter came up before the Business Advisory Committee we did not know that both these Bills and Resolutions would come on the same day and, therefore, separate times were allotted. Now, there is a general consensus of opinion. I did consult hon. Members, Shri Atal Bihari Vajpayee. Shri M. S. Gurupadaswamyji and Shri Virendra Vermaji.

SHRI JASWANT SINGH: I have to assert, I am not for a moment...

THE DEPUTY CHAIRMAN: Now, you are not allowing me to speak.

SHRI JASWANT SINGH: Madam, with your permission...

THE DEPUTY CHAIRMAN: I am on my legs. I have heard you.

There is a general consensus of opinion because the Minister is the same who is going to reply and there would be enough time for the Member also to participate. Generally, the topic is also not much different. If it is different, then, you can speak. You will get a chance to speak. You can make all these points clear in your speech. There is a genral consnsus of opinion and that is why it is taken up with the previous consent of the leaders belonging to various groups.

SHRI JASWANT SINGH: Madam, I remain dissatisfied because the Statutory Resolution is in my name. The question of party leadership here, with due respect, does not arise. As an individual Member of Parliament, I have moved a Statutory Resolution. The Chair had not the courtesy to consult me. The parliamentary system is being changed. If the Statutory Resolution of disapproval is standing in my name, the party leadership has no right to encroach on my rights of Statutory Resolution of disapproval.

THE DEPUTY CHAIRMAN: Mr. Jaswant Singhji, you are going to get your time to speak because you have moved the Resolution. So nothing is going to go against you.

SHRI JASWANT SINGH: Madam, it is not the right to speak which I am referring to.

THE DEPUTY CHAIRMAN: The Statutory Resolution is in your name and you are going to get your chance to speak.

SHRI JASWANT SINGH: Madam, that is not the point. You are lumping together all the Resolutions.

THE DEPUTY CHAIRMAN: In any case you are going to get an opportunity to speak.

SHRI JASWANT SINGH: I am not dying to speak, why don't you understand? It is not that I am dying to speak. You are doing a wrong thing.

THE DEPUTY CHAIRMAN: You see in the past also that has been done. When there is the same topic on the Bill and the Resolution we take them together. This is the convention of this House. You have moved the Resolution, you are going to get your opportunity to speak. You will not be denied the oportunity.

SHRI NIRMAL CHATTERJEE (West Bengal): Madam Deputy Chairman, kindly provide more time to each party.

THE DEPUTY CHAIRMAN: They will get the time. Now, Shri Atal Bihari Vajpayee.

श्री अटल बिहारी वाजपेयी (मध्य प्रदेश) : महोदया, मैं निम्नलिखित संकल्प उपस्थित करता हूं...

"यह सभा राष्ट्रपति द्वारा 9 जून, 1987 की प्रख्यापित राष्ट्रीय सुरक्षा (संशोधन) अध्यादेश, 1987 का निरनु मोदन करती है।"

महोदया, पहले तो यह अध्यादेश जारी ही नहीं किया जाना चाहिए था लेकिन इसे जारी किया गया, अनावश्यक रूप से जारी किया गया और अब इसे कानूनी जामा पहनाया जा रहा है, कानूनी रूप दिया जा रहा है, यह तो नितान्त अनावश्यक है।

जो वक्तव्य इस अध्यादेश के साथ इस विधेयक के साथ दिया गया है उस के अनुसार यद्यपि पंजाब को और चंडीगढ़ को उपद्रवग्रस्त क्षेत्र घोषित किया गया है फिर भी वहां स्थिति

[श्री अटल बिहारी वाजपेयी]

में कोई सुधार नहीं हुआ । कानून और व्यवस्था की स्थिति निरन्तर बिगड़ती रही । बिगड़ती स्थिति को रोकने के लिए पंजाब में राष्ट्रपति राज लागू किया गया । उसके बाद भी स्थिति सम्भलती हुई नहीं दिखाई दे रही है ।

अध्यादेश जारी किया गया जिसका मर्म है क्लाज 14ए । पंजाब हाई कोर्ट की डिविजन बैंच ने उसे रद्द कर दिया था लेकिन सुप्रीम कोर्ट में अपील हुई। वहां से स्थगन आदेश प्राप्त हो गया । अन्तिम फैसला क्या होगा कोई नहीं जानता । लेकिन सरकार अन्तिम फैसले के लिए रुकी हुई नहीं है । उन्होंने बीच में 9 जून को अध्यादेश जारी कर दिया । इस समय पंजाब में यह अध्यादेश लागू है। इसके अन्तर्गत कार्रवाई हो रही है। क्या पंजाब की स्थिति में सुधार हुआ है ? सरकार भी इसका उत्तर 'हां' में नहीं दे सकती।

सचमुच में इस अध्यादेश के द्वारा नजरबंदी कानून को और कठोर बनाने के लिए अधिकार लिये जा रहे हैं । नजरबंदी कानून को एक स्वतंत्र देश में लोकतंत्रवादी देश में जहां का संविधान लिखा हुआ है और जिस संविधान में मूलभूत अधिकारों की अलग से गारण्टी है, कितना उचित है मैं इस बुनियादी सवाल को यहां नहीं उठा रहा हूं । यद्यपि यह सवाल जब-जब नजरबंदी कानून की अवधि बढ़ाई जायेगी या उसे और कठोर बनाया जायेगा तो उठेगा । 1950 से यह बहस चल रही है कि किसी स्वतंत्र देश में किसी नागरिक को बिना कारण बताये गिरफ्तार करना और बिना मुकदमा चलाये जेल में रखना कितना ठीक है । संविधान में जब नजरबंदी का समावेश किया गया तब भारत के गृह मंत्री सरदार वल्लभभाई पटेल थे । आज भी हमारे गृह मंत्री एक सरदार हैं । सरदार बूटा सिंह । उस समय सरदार पटेल को दो रात नींद नहीं आयी थी । सरदार बूटा सिंह को तो इस सदन में आने तक की फुर्सत नहीं है । लेकिन यह बहस जारी है और बहस जारी रहेगी । हमारे श्री चिदम्बरम् जी ने भी लोक सभा में भाषण करते हुए कहा—

"I believe that we must have a day when there would be a full play to personal liberty and freedom without having recourse to the law of Preventive Detention."

मैं उनकी भावनाओं की कद्र करता हूं । कम से कम भावनाओं के स्तर पर सहमत हैं कि नजरबंदी का कानून ठीक नहीं है और यह नहीं होना चाहिए । कोई दिन ऐसा आएगा जब इस काले कानून की जरूरत नहीं पड़ेगी । वह दिन कब आएगा ?

महोदया पंजाब में ऐसा भी समय था जब धारा 14(ए) ओपरेशन में नहीं थी । अप्रैल, 1986 से 9 जून, 1987 तक 14(ए) अस्तित्व में नहीं था। क्या उस समय पंजाब की कानून और व्यवस्था की स्थिति बहुत बिगड़ गई थी ? क्या पुलिस के काम में ऐसी कठिनाई पैदा हो गई थी जिसे पुलिस पूरा नहीं कर पा रही थी। यह ठीक है कि बरनाला सरकार जब काम कर रही थी तो यह कानून अस्तित्व में था, प्रभावी था । लेकिन जब हाई कोर्ट ने इसे रद्द कर दिया तो पंजाब में ऐसी स्थिति थी कि यह धारा 14(ए) व्यवहार में नहीं थी । अगर उस समय इसके बिना काम चल सका तो अब क्यों नहीं चल सकता है ? यह 14(ए) है क्या ? अगर आप अध्यादेश को देखें और जिस अध्यादेश के आधार पर विधेयक लाया जाने वाला है, उस पर दृष्टि पात करें तो कुल मिलाकर यह अध्यादेश दिनों का खेल है ।

It is a game of days.

In section 14A, sub-section 2(a) (i) (A) says "for the words "ten days", the words "fifteen days" shall be substituted; Sub-section 2(a) (i) (B) says, "for the words fifteen days", the words "twenty days" shall be substituted; Sub-section 2(a) (ii) says, "In sub-section (5), for the words "seven days", the words "fifteen days" shall be substituted; Subsection 2(b) says, "in section 8, in sub-section (1), for the word "ten days", the words "fifteen days" shall be substituted;"

फिर आगे कहा गया है कि जो कानून तीन हफ्ते के लिए है वह चार महीने और दो हफ्ते के लिए होगा। जो धारा सात हफ्ते के लिए लागू थी वह पांच महीने तीन हफ्ते के लिए लागू होगी और जो 12 महीने के लिए लागू थी वह अब 24 महीनों के लिए लागू होगी। क्या पंजाब की समस्या, पंजाब की कानून और व्यवस्था, इतनी कम बिगड़ी हुई हालत में है कि इतने परिवर्तन पर ही निर्भर करती है ? अगर 10 दिन से 15 दिन, 15 दिन से 20 दिन कर दिया जाय तो क्या पुलिस सक्षम हो जाएगी? क्या इससे कानून और व्यवस्था का तत्र आतंकवाद को चुनौती देने में समर्थ हो जाएगा? मैं जानना चाहता हूं कि इस तरह के संशोधन के पीछे, इस अध्यादेश के पीछे, चिन्तन क्या है? पंजाब में आतंकवाद की समस्या काफी दिनों से चल रही है। उसका सामना करने के लिए कदम भी उठाये गये हैं। पंजाब और चण्डीगढ़ को उपद्रवग्रस्त क्षेत्र घोषित किया गया है। और भी कानून बने हैं। क्या कानून इसलिए प्रभावी नहीं हो रहे हैं कि पुलिस को 10 दिन के अन्दर कोई काम करना पड़ता है और जिसके लिए वे 15 दिन मांग रहे हैं और यह सदन 15 दिन देने भी जा रहा है? क्या यह बात इतनी सरल है? क्या यह दिनों का खेल है?

पंजाब में पुलिस को सशक्त बनाया गया है। पंजाब में पुलिस बल को आधुनिक उपकरण दिये गये हैं। अब जिले से चंडीगढ़ सूचनायें पहुंचने में देर नहीं होनी चाहिए। पूरे पंजाब को कार्य क्षेत्र बनाकर कार्यवाही हो रही है। क्या पुलिस को इतनी सुविधायें देने मात्र से पंजाब की जलती हुई आग को शांत किया जा सकता है? ऐसा लगता है कि जब-जब पंजाब की हालत बिगड़ती है और सरकार अपने को असहाय पाती है, निरुपाय पाती है, सरकार उस हालत का सामना करने में अपने को असमर्थ पाती है तो वह सदन के सामने, देश के सामने अधिक अधिकारों की मांग लेकर खड़ी हो जाती है। क्या अभी जो अधिकार हैं वे अपर्याप्त हैं? क्या उन अधिकारों का समुचित उपयोग हो रहा है? क्या उनमें दिनों का फर्क करने मात्र से समस्या हल हो जायेगी?

महोदया, पंजाब के लिये सरकार ने जो अधिकार मांगे, हमने देने में संकोच नहीं किया। लेकिन उसके बाद भी स्थिति क्या है? अभी तो चंडीगढ़ और पंजाब को ही उपद्रव क्षेत्र घोषित किया गया है। क्या गृह राज्य मंत्री सदन को विश्वास देंगे, मुझे विश्वास देंगे कि इनके अतिरिक्त और किसी क्षेत्र को उपद्रव-ग्रस्त क्षेत्र घोषित करने की नौबत नहीं आयेगी। आतंकवादियों ने दिल्ली में अपनी गतिविधियां तेज कर दी हैं। दिल्ली में उन्होंने सामूहिक हत्यायें की, उन्होंने चुन चुन कर लोगों को मारा लेकिन वे अभी तक पकड़े नहीं गये। किसी को नजरबंद भी नहीं किया गया? अगर ऐसा है तो आप नजरबंदी दस दिन से पन्द्रह दिन बढ़ाकर क्या पाएंगे? आतंकवादी हरियाणा को लपेट में ले आए हैं गंगानगर में दो पुलिस कर्मियों की हत्या हुई है। आतंकवादी अपनी गतिविधियों का विस्तार करने में सफल हो रहे हैं और सरकार के पास इस अध्यादेश के अलावा कोई हथियार नहीं हैं। क्या सरकार के शस्त्रागार में कमी है? अगर नहीं है तो क्लीयर परसेप्शन नहीं है, राजनतिक इच्छाशक्ति नहीं है और दूरदर्शिता के आधार पर, नीति मत। के आधार पर पंजाब की समस्या को हल करने का कोई संकल्प नहीं है।

भारतीय जनता पार्टी जब मांग करती है कि अगर पंजाब में पैरा मिलेटरी फोर्सेज स्थिति का नियंत्रण करने में समर्थ नहीं है तो फौज की मदद लेने में संकोच नहीं होना चाहिए तो आपत्ति की जाती है। कल मैंने एक लेख देखा, कम्युनिस्ट पार्टी और पंजाब के बड़े प्रतिष्ठित और सम्मानीय नेता हैं श्री सतपाल डांग। वे पंजाब में रहते हैं। वे गांव गांव में घूम रहे हैं और आतंकवादियों से लड़ रहे हैं। भारतीय जनता पार्टी के कार्यकर्त्ता भी आतंकवादियों के खिलाफ पंजाब की जनता, जिनमें हिन्दू सिख शामिल हैं, उनको संगठित करने का प्रयास कर रहे हैं। लेकिन जो पंजाब में रहने वालों की अनुभूति है, पंजाब में रहने वाले किस तरह से अनुभव करते हैं यह शायद बाकी देश के लोगों के लिये समझना कठिन है। श्री डांग अपने लेख में लिखते हैं कि :

"Possibly the strength of the para-military forces in the State is not

[Shri Atal Behari Vajpayee]
adequate. If that is so, why are not more battalions being requisitioned? If they were not available, why not take the help of the army? No answers are forthcoming. Nor is this all. As yet, no reaction has been forthcoming from the authorities to the plan of the extremists to capture all gurudwaras and to use their resources for killing."

स्वर्ण मंदिर परिसर पर आतंकवादियों ने कब्जा जमा लिया है। बी ग्रेड के आतंकवादी परिसर में डेरा डालकर जमा हैं। जिनको ए ग्रेड आतंकवादी कहा जाता है वे स्वर्ण मंदिर में जाते हैं, विचार-विनिमय करते हैं और दूसरे दिन की हत्याओं की योजना बनाते हैं और चले आते हैं। अब खबरें आ रही हैं कि आतंकवादी अपने को आधुनिकतम शस्त्रों से लैस कर रहे हैं। इस तरह की आशंका पहले भी थी। क्या वे हेलीकाप्टर प्राप्त करने में सफल हुए हैं? क्या वे प्रक्षेपास्त्र प्राप्त करने की कोशिश कर रहे हैं? आतंकवाद अब गुरिल्ला युद्ध का रूप लेने जा रहा है। क्या उसका सामना करने में इस तरह का अध्यादेश इस तरह का विधेयक जो 10 दिन से 20 दिन, 20 दिन से 25 दिन, 25 दिन से 30 दिन की बात करता है, समर्थ हो सकता है? महोदया, मेरा निवेदन है कि अधिक अधिकार लेने के बजाय जो अधिकार सरकार के पास हैं उनका ठीक तरह से उपयोग करें।

आतंकवादियों के खिलाफ एक जबरदस्त अभियान होना चाहिए। सारी शक्ति लगा कर वह अभियान करें, उस में आवश्यकता हो तो फौज की मदद ली जाए मगर साथ ही साथ पंजाब में जो संवादहीनता की स्थिति है वह समाप्त होनी चाहिये। सरकार यह बताए कि प्रकाश सिंह बादल किस लिए नजरबंद हैं? अगर उन्होंने कोई जुर्म किया है तो मुकदमा चलाइये। उन से हमारे मतभेद थे। वे संसद भवन में आए थे, विरोधी दलों के सदस्यों से मिले थे। हमने उनको काफी खरी-खोटी सुनाई। मगर अब उन्हें जेल में रखने का क्या औचित्य है? कितने लोग पंजाब में नजरबंद हैं? ब्रिटन में आतंकवादियों के खिलाफ मुकदमा चल सकता है। पंजाब में संबंधित आतंकवादियों को सजा दी जा सकती है, अमरीका में मुकदमा चल सकता है और उनको सजा दी जा सकती है लेकिन जो आतंकवादी जोधपुर जेल में बन्द हैं, इतने साल हो गये, उन पर अभी तक मुकदमा ही नहीं चला है। कौन निर्दोष है, कौन दोषी है इसका निर्णय कैसे होगा? मैं चाहता हूं मंत्री महोदय जब उत्तर दें तो यह बताएं कि पंजाब में कितने लोग नजरबंद हैं। यह भी बताएं कि किस आधार पर उन्हें नजरबंद किया गया है। श्री प्रकाश सिंह बादल के खिलाफ क्या आरोप हैं? जो हिंसा का परित्याग करने के लिए तैयार हैं और जो भारत के संविधान के अन्तर्गत देश की एकता और अखण्डता के भीतर समस्या का समाधान चाहते हैं उन से बात करने में कोई आपत्ति नहीं होनी चाहिये। लेकिन बातचीत तब तक सफल नहीं होगी जब तक आतंकवादियों को मुंह तोड़ जवाब नहीं दिया जाएगा। जवाब देने के लिए यह जैसा अध्यादेश ले कर आप आए हैं वैसा काफी नहीं है। इसके लिए एक नयी स्टेटेजी एक नयी रणनीति की जरूरत है जिस की सफलता के लिए जनता का सहयोग भी आवश्यक होगा। मगर एक बार अगर जनता के मन में यह विश्वास पैदा हो जाए कि आतंकवादियों को कुचलने के लिए आप तैयार हैं, उसके लिए जो भी कदम उठाने की आवश्यकता होगी, आप उठायेंगे तो लोगों का सहयोग भी प्राप्त होगा। लेकिन जिस तरह का विधेयक आप ले कर आए हैं या जिस तरह का अध्यादेश आपने जारी किया हम उसका विरोध करने के इलावा कुछ नहीं कर सकते हैं।

THE DEPUTY CHAIRMAN: Now, the honourable Minister, Mr. Chidambaram.

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Madam, Deputy Chairman, there are two Bills and there are two Resolutions before the House. Madam, the honourable Member, Mr. Vajpayee, criticised both the Bills. But the main thrust of his criticism was...

SHRI LAL K. ADVANI (Madhya Pradesh): He spoke only on one Bill.

SHRI P. CHIDAMBARAM: That is what I thought. Madam, I think the main thrust of his criticism was only against the National Security (Amendment) Bill. I assume that, with regard to the other Resolution, when it is moved, I will have an opportunity to reply to that also.

SHRI JASWANT SINGH : You won't have that. The right of reply lies with the mover of the motion. You don't have the right.

SHRI P. CHIDAMBARAM: I think I have the right to speak.

SHRI JASWANT SINGH: Of course, that right is for everybody.

SHRI P. CHIDAMBARAM: I think I have a right to reply to what he said.... *(Interruptions)*...

THE DEPUTY CHAIRMAN : You have to move your motion first and then speak.

1.00 P.M.

SHRI P. CHIDAMBARAM: I have a right to speak on what he has said. Madam, I beg to move:

> "That the Bill further to amend the National Security Act, 1980, in its application to the State of Punjab and the Union Territory of Chandigarh as passed by the Lok Sabha, be taken into consideration."

Madam, the National Security Amendment Bill seeks to replace the Ordinance was promulgated. In the 9th of June. I think there is a little amount of misunderstanding about the circumstances in which this Ordinance was promulgated. In this Ordinance and the Bill which is being moved to replace the Ordinance, we are not taking any power which was not granted by this Parliament to us in April, 1984. The crux of the amendment is Section 14A and certain other provisions of the National Security Act where the period of compliance with certain procedural steps is being extended keeping in mind the special situation in Punjab. These very provisions were made by Parliament in April 1984. Initially, it was for a period of one year and later, by an Amending Act it was extended for a further period of one year which expired on the 4th of April, 1986. In the meanwhile, on the 9th of December, 1985, a Division Bench of the Punjab High Court struck down Section 14A on the ground that is contravened Article 22(7)(a) of the Constitution. An appeal was filed in the Supreme Court. The Supreme Court granted a stay of operation of the judgment on the 20th of December 1985. Section 14A, therefore, continued to operate. The life of Section 14A expired in April 1986. Today, we are really not relying upon the stay order granted by the Supreme Court. The Supreme Court will, no doubt, decide on the correctness or otherwise of the Punjab High Court judgment. The life of Section 14A was over in April, 1986. We are coming forward with a similar provision asking for the same powers which Parliament gave to us in April, 1984. It will, therefore, not be correct to say that the Government is trying to arm itself with any extraordinary or unusual powers.

Secondly, even at this stage I would like to mention that although we are advised that the judgment of the Punjab and Chandigarh High court is wrong and although our appeal has been admitted by the Supreme Court, in deference to the views expressed by the Punjab and Chandigarh High Court, we made a modification in Section 14A when I moved an official amendment in the Lok Sabha. Lok Sabha has accepted the official amendment. Members would see that in the present Section 14A, we have narrowed down the scope of Section 14A and confined it to persons against whom detention orders have to be passed not only because they are acting contrary to the inte-

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grity of India, etc. but also because they are coming in the way of Government's efforts to prevent and cope with terrorist activities. This amendment which has been introduced really reduces the scope of old Section 14A by adding some more provisions restricting the power under Section 14A. So, I don't think the criticism is correct that we are arming ourselves with extraordinary powers. During the course of the debate, I hope to be able to answer other points which the hon. Member, Mr. Vajpayee raised about our policy in Punjab, about the efforts that we are making to contain terrorism, about the success of these efforts, about the setbacks that these efforts have received and what we intend to do in the months to follow.

THE DEPUTY CHAIRMAN: Now the Statutory Resolution disapproving the Terrorist and Disruptive Activities (Prevention) Ordinance, 1987—Shri Jaswant Singh.

SHRI JASWANT SINGH: Madam Deputy Chairman, I move:

> "That this House disapproves of the Terrorist and Disruptive Activities (Prevention) Ordinance 1987 (No. 2 of 1987) promulgated by the President on the 23rd May, 1987."

Madam, it is a very difficult task for me to follow in the distinguished footsteps of Shri Atal Bihari Vajpayee or to match his eloquence. My task is made doubly more difficult because I have to make a clear distinction between the two Statutory Resolutions of disapproval which we are taking up simultaneously. Madam, I am not sufficiently convinced and I find it difficult to go along with the thesis which underlines the promulgation of such an Ordinance, that between the going into recess of the two Houses of Parliament, in the middle of May, and 23rd of May, when this Ordinance was promulgated suddenly such developments took place that rule by ordinances was necessitated. The difference in these, between the two Houses going into the recess and the promulgation of this Ordinance was, in fact, less than two weeks. Therefore, for the Government not to have anticipated that there was a requirement for such an Ordinance and to having anticipated, taken the right measures before the two Houses went into recess in in itself an index and reflective of the Government's alarmist adhocism about the total aspect of how as a nation we are to confront terrorism.

I go back, Madam, to the Statement of Objects and Reasons as has been given by the Government itself. And in the process of explaining the objects and reasons, the Government has shed light whatever little there is with it today, on the question of why this Ordinance and why the Bill. This is how the Government explains it: "It was expected then that it would be possible to control the menace..."—and the menace of which the Government is talking is terrorism and disruptive activities—"... within a period of two years..."—that is two years from 1985—"... and, therefore, the life of the said Act was restricted to a period of two years from the date of its commencement. However, it was subsequently realised that on account of various factors, what were stray incidents in the beginning have now become a continuing menace specially in States like Punjab." Even though statements are of somewhat questionable grammer and syntax, they are without any doubt Madam, the most straight-forward, also the most candid admission of failure, of administrative incompetence and of an absence of a comprehensive approach to the whole question of terrorism. In 1985, this Government is in power and asks of the Parliament to give it the ability to act against terrorists and against disruptive activities. It asks for this power for two years. This power is given by the Parliament with the caution that you must

now, after this, come forward with no further alibis, you must deliver the goods. What you ask for, the Parliament is giving you. And this very Government thereafter comes worward and says that it has subsequently been realised that despite the possession of this power not only has it not been able to control, effect or even have a dent on the question of terrorists, it is, in fact asking for yet another two years. Not just two years, not just to repeat that which the Parliament had granted it in 1985, it goes further and says that the Ordinance had three changes, that from the 1985 Act to the Ordinance, three major changes are brought about. And from the Ordinance to the Bill very many more major changes are again brought about. And I shall go through this because these are really classic examples of adhocism, of alarmism. Between 1985 and the promulgation of this Ordinance, the three changes suggested are that punishments for terrorist and disruptive activities are made more deterrent. Secondly, the Central Government is empowered to designate courts. Thirdly, the rule-making powers for carrying out the provisions of the Ordinance etc, and there are some amendments in that respect. Now, between the promulgation of the Ordinance on the 23rd of May and the presentation and bringing forward of that Ordinance in the form of a Bill before Parliament very substantial changes take place. I shall be referring to them in the course of my presentation because those substantial changes in fact, in addition to all the other things that I say, lie at the heart of my objections to this measure. I have some other objections also to this Ordinance because of which I have moved this motion of disapproval. Some of these I have had occasion to mention in the House earlier and I am obliged to repeat them. My objections are firstly, procedural, secondly they relate to the politics of the measure, thirdly, they relate to my difficulty to be sympathetic to the Government's assertion that it has a will to combat this ill, which we face as a nation, the evil of terrorism, and I have a fourth difficulty, which relates to the very effectiveness of this legislation. My fifth difficulty, which as a layman I put forward is about propounding a new judicial philosophy.

My first, which relates to a procedural difficulty, Madam, is a repetition and reiteration about the role of Parliament and the question of rule by Ordinance. The Parliament is in session up till almost mid-May and the Ordinance is promulgated on the 23rd of May. There is no reason why an extensive, comprehensive measure like this should not have been brought to the Parliament before the House recessed. Every act of rule by Ordinance is an encroachment on the Parliament's right and every time that this Government adopts an Ordinance to rule, we shall be obliged to resist.

Madam, my second difficulty was about the politics and my third was about the effectiveness of this measure. I shall put both together and consider them. Here we are faced with the aspect of the Government's will against terrorism, the will to act against terrorism. I read the Hon. Minister's intervention in the other House with interest. Referring specifically to the State of Punjab, the Hon. Minister said: "Sardar Surjit Singh Baranala's Government had lost the political will to act against the terrorists in Punjab." It was a statement fiilled with very deep irony. In the February speech of the President to the Joint Session, breaking all conventions, a Chief Minister of a State is named and is commended, by name, as having courageously and with great vigour stood up against all that was disruptive in the State of Punjab and for having demonstrated commendable political will against terrorism. Within months of that certification by the President of the Republic the coalition part-

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ner, which is the Congress Party, moves out in its support to Sardar Surjit Singh Barnala. Sardar Surjit Singh Barnala's was a minority Government. And even if it was not stated coalition, it was *de-facto* coalition. Shri Barnala could not have survived in Punjab had the Congress party not been supporting it. And suddenly, within months of that, Surjit Singh Barnala begins displaying lack of political will to act against terrorism! I submit that it is an attempt to pass on a lack of political will which is being demonstrated by the Central Government to act against terrorism. Wherever it displays action, it is not an action which has been thought out or is a part of a comprehensible approach of a policy against terrorism; it is alarmistly *ad hoc*. The Central Government's approach to terrorism, whether it is Delhi or it is Punjab or its excessive preoccupation with security syndrome of the VIPs, is alarmist and exaggerated. It is exaggerated in statement. It is inefficient and inadequate when applied. It is selective. It is unduly tense and unduly overstated. And that is why it fails, and it is filled with unintelligence. You cannot act against a terrorist if there is absence of intelligence in the action that you take. And when I refer to intelligence here, I am not referring to cerebral capacities; I am referring to administrative input of intelligence. There is an absence of will and effectiveness, because—and I had occasion to say this earlier—this Government has a tendency, and it demonstrates this tendency repeatedly whenever confronted with the problem, towards legislating a new law for every new crime and a new police force for every new criminal. Whenever we see a new manifestation of criminal activity anywhere in the country, our Government's first response is to legislate against that particular manifestation and to meet that manifestation, to mushroom yet another force. Why does it do so? In essence, effectiveness of any measure, legislated measure against law and order problem, will be judged in its effectiveness by the moral authority of the Government that so legislates. It is the moral authority of the Government, whether be it at the Centre or in the States, which, in fact, stands behind legislations of law and order, and if that moral authority is lost, ever, it can never be reimposed from outside by purely legislated law and order methods. It is no secret, Madam, that this Government fails in its central task of combating terrorism because it has lost its moral authority. The Government teeters on the edge of a kind of irrelevance and a pantomime of governance. It used to be said for the later Moghuls, in the days of Mohammad Shah Rangila and others, that the writ of the Moghul court then ran up to Palam. I am saddened to have to say that whatever we might legislate, and extreme measures that are contemplated in this Ordinance and this Act, are, in fact, an index of a feeling of helplessness, of a loss of moral authority, because if this Government's *iqbal* were alive, then such extreme measures as are being contemplated, would not be necessary, and its writ would run and no terrorist would ever dare raise its head. Therefore, when I come to the specific aspect of what my objections are all about. I will come to the specifics of what is being propounded, very briefly, and what is being put across in this new legislation. There are three stages of it. The 1985 Act, the Ordinance and improvement upon the Ordinance. What is being propounded, in brief, is: summary sentence along with enhancement of punishment on the basis of reason to believe, on the strength of photo identification, on presumption of offence and on admission extracted in police custody by the police. I wondered and I paid attention to the debate in the other House to find out what explanation, what suggestions, what rationale the Government would come forth to explain why this major departure from the established philosophy of jurisprudence in the country was being

attempted. Madam, I must in all candidates say this. When it was suggested that a major departure from the philosophy of, established philosophy of, jurisprudence in the country was being attempted, it was explained away by the hon. Minister on the ground that the British and the French have it. If the British and the French have a certain system, it is not necessarily good for us. We need not necessarily adopt what the British and the French have, which only they have and merely because they have it. The terrorist and disruptive activities that we face are not British and the French will not come and resolve them for us. They are Indian. Their origin is Indian. It is we who have to fight them. Therefore, to provide a rationale and an explanation because, merely because, the British and the French have done it, is not convincing. It alarms me. What are the specific measures, after the Ordinance, that the Government is proposing? Subsequent to the promulgation of the Ordinance itself—here again, it is an illustration of the policy of alarmist *ad-hocism*—you make a major departure from the established policy of jurisprudence. How do you do it? You make some changes in the Arms Act. Make it punishable with imprisonment for five years and beyond, enhanceable thereafter up to imprisonment for life and fine. Then, thereafter, it is provided that a confession made by a person before a police officer not lower in rank than that of a Superintendent of Police and recorded as such will be evidence. I paid careful attention to how the hon. Minister would attempt to explain the rationale of such a provision. His reply was 'surely, at the level of a Superintendent of Police, you can trust him for it.'

THE DEPUTY CHAIRMAN: Just one minute. I would like to know the mind of the House. Should we break for lunch or should we continue? In any case, we will have to sit beyond six to complete the Business.

SHRI SUKOMAL SEN (West Bengal): We should have lunch-break.

SHRI LAL K. ADVANI: There should be lunch-break.

THE DEPUTY CHAIRMAN: Mr. Jaswant Singh, you can continue.

SHRI JASWANT SINGH: What is the decision?

THE DEPUTY CHAIRMAN: We will have lunch-break.

SHRI JASWANT SINGH: I was on the point of the confession obtained by the police in custody and the Minister attempting to explain it. He says, there should be no difficulty about it. He says 'After all, we have ensured that it will not be lower than the rank of a Superintendent of Police'. I am touched by the hon. Minister's innocence. He is handling the portfolio for some time. Surely, it is ingenuous of him to suggest that merely because it is provided that it will not be lower than the rank of a Superintendent of Police, we should have faith in that confession extracted in police custody. The hon. Minister knows as well as anybody in this House that it is not the Superintendent of Police who will extract the confession. It will be the *thanedar*. It will not be the *thanedar* even. It will be the police constable. Now am I to accept it, in the climate that is obtaining in the country today? I do not wish to roundly and uniformly condemned the totality of the police force. But I do submit, Madam, it is implicit in the Minister's suggeston that please believe the Superintendent of police, he will not extract confessions by force. Well, I am not sufficiently persuaded and I am certainly not convinced. There are here in this House any number who could give any number of instances, not only of the corruption which is prevalent and rampant in the police force, but also

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of the loss of morale, also of the loss of standing, public esteem, that the police today faces in the country. There are endless examples. Do I have to repeat them? There are examples that have been tabulated of policemen not only arresting criminals but actually conniving to kill persons. That is in today's newspaper. There is a photograph of a student or a boy who is taken by his own father to the police station because the police want him and he is beaten to death in police custody. The hon. Minister would have us believe that merely because by a bureaucratic decision he has said or the Government says that it is the police superintendent who will be extracting confessions, therefore, please believe in the validity of it. I do not, cannot and I am not convinced about it. There is the third proposition. (*Time bell rings*). I do not know for what you have rung the bell.

THE DEPUTY CHAIRMAN: You have to finish now.

SHRI JASWANT SINGH: I cannot stop, I think there is no time-limit. (*Interruptions*). You cannot beat me with both the stick.

THE DEPUTY CHAIRMAN: No, no, I am not beating you. Don't take it in that manner. I am just reminding you that you have to complete now.

SHRI JASWANT SINGH: Madam, the third thing is that 'the designated court shall presume, unless the contrary is proved, that the accused had committed such offence.' This is specifically in the context of arms and explosives. The presumption of an offence as against innocence is a departure. I submit in all humility to the Government that wherever you say, depart from presumption of offence as against innocence, please weigh it more carefully than what you are doing today. You and I are temporary beings. You and I may be here now and gone tomorrow. You might delight in the fact of sitting on the Treasury Benches today and I might delight in the fact of being able to pillory you from the opposition. Who knows the situation might reverse? Who knows whether either of us will be here or not, yet, that is not a significant point. If, however, on the statute books of the country you leave measures which are significant departures from the established cultural customs and civilizational ethos of our country, then I think for a temporary expediency you might be harming what is permanently a part of this country.

There are three other provisions that are suggested, Madam. That in the case of a proclaimed offender photo evidence as against personal verification by witness shall suffice. Here again it is an innovative departure, it is fraught with all kinds of dangers. What is photo evidence? What quality of photograph it ought to be? Can it be a photograph taken by somebody, can it be a profile photograph? You might say that this will also be specified when it comes to defining the rules and the rules shall take care of that. But, Madam, it is an innovative departure. I do not know whether it will serve the purpose and I would caution the Government against this.

There is then empowerment of Designated Courts to try offences in a sum-summery way and finally there are aspects of rules. I won't cover rules at the present moment. I will take up rules when I reply to the points. I shall, however, give one example of the misapplication—which is my final difficulty—of this Ordinance and the Terrorist and Disruptive Activities (Prevention) Bill. The misapplication of it is demonstrated by what has taken place recently in Gujarat. About 250 people have been arrested in Gujarat, I am given to understand, under the Terrorist and Disruptive Activities Act. Amongst those served with a notice of arrest is a Deputy Mayor of Baroda. What concerns me

more and about which I am alarmed is that a notice is served on a party colleague of mine who has been a Minister in the State of Gujarat, a distinguished and reputed citizen of that State. He is also served a notice under the Terrorist and disruptive Activities Act! I do not want to labour this point because you are getting impatient, but I would request the hon. Minister to please clarify and give me full facts about the total number of people in Gujarat who have been served with this notice and who have been imprisoned. Is it a fact that Shri Makrand Desai, a former member of the Legislative Assembly of Gujarat and a former Minister in Gujarat, has also been served a notice? If so, for what reason and why? I would request that this be clarified. Madam, I reserve a great number of points for the afternoon when the impatience level will be even lower.

THE DEPUTY CHAIRMAN: You have a right to reply at that time|

SHRI JASWANT SINGH: So I have my right to reply.

THE DEPUTY CHAIRMAN: The House now stands adjourned for lunch and shall meet at 2.30 P.M.

The House then adjourned for lunch at thirty-two minutes past one of the clock.

The House reassembled after lunch at thirty-two minutes past two of the clock, **The Vice-Chairman (Shri Jagesh Desai)** in the Chair.

SHRI P. CHIDAMBARAM: Mr. Vice-Chairman, Sir, I beg to move:

> "That the Bill— to make special provisions for the prevention of, and for coping with, terrorist and disruptive activities, and for matters connected therewith or incidental thereto, as passed by the Lok Sabha, be taken into consideration."

Sir, at this stage I do not wish to dwell at great length on the objections raised by the honourable Member who moved the Statutory Resolution, Mr. Jaswant Singh, but I will briefly answer some of the main points.

Sir, the Terrorist and Disruptive Activities (Prevention) Act, 1985 was enacted in May 1985 for a period of two years. That Act expired on 23rd May 1987. It would have been wholly unwise to have allowed a gap between that Act and the successor legislation. Therefore, it became necessary to promulgate an Ordinance in May 1987. Now, after Parliament has reconvened, we are coming forward with a Bill to replace that Ordinance and we take this opportunity to place before Parliament a comprehensive Bill which takes care of the deficiencies which were noted in the working of the earlier Act, and adds certain other provisions which are found necessary to combat terrorism. I do not think, therefore, it would be right to say that these are *ad hoc* or incremental steps which are taken by the Government.. We had an Act. Because it would have been imprudent to allow a time-gap, an Ordinance was promulgated and this is now being replaced by a Bill.

Sir, the earlier law had a slightly different structure. Honourable Members will remember that immediately after the Muktsar bus tragedy, Parliament vehemently criticized the Government for not taking action directly in Punjab. We took the position that the Act as framed did not confer power upon the Central Government to act directly but that it conferred the power only upon the State Government. I remember the meeting with the hon. Members the Opposition. I remember the discussions here. The thrust of the attack on Government was, "The Government must act. Merely because the State Government does not act. What are you doing? Are your hands tied? We said "our hands are tied."

SHRI B. SATYANARAYAN REDDY (Andhra Pradesh): But we did not talk about dismissal of the Barnala Government.

SHRI P. CHIDAMBARAM: I am not talking about the dismissal. I am talking about stepping in and acting. We have, therefore, structured the Bill in such a way that the primary responsibility to act would be on the State Government. But when we find that for certain reasons the State Government is unable to act, we have taken power for the Central Government also to act. It is a power and a jurisdiction which is there now in both, the Central Government and the State Government. But we hope that the State Government will act. For example, the power to constitute a designated court is now concurrently vested both in the State Government and the Central Government. The power of registration, investigation and prosecution for an offence is now concurrently vested in the State Government and the Central Government. But, it is my hope that the State Governments will act.

The second major deficiency which was noted in the structure of the earlier Act was that that Act required rules to be made, and those rules in turn required general or special orders to be made. And when I reviewed the matter, I came to the conclusion that in a situation of terrorism, it is not possible to work and act if repeated subordinate legislation is required to be done. You will now kindly see, if you closely study this Bill, most of the powers which are necessary for the police are conferred by the Bill itself. There is very little that we have left to the rule-making authority. And practically nothing is left to any subsequent stage, namely, orders to be made under rules. However much we may try, we cannot eliminate the need to make some rules, we cannot eliminate the need to issue some orders. But, we have kept it to the bare minimum. The substantive powers are found in the Bill itself.

Sir, the hon. Member, Mr. Jaswant Singh said that this Government has lost its moral authority. Ever since he returned from his tour abroad, I think, his absession is only with the moral authority of the Government. I am glad he did not say that it has lost the will to fight terrorism. We have the will to fight terrorism. And it is because we have the will to fight terrorism, we took extreme steps.

It is not an easy decision to dismiss a State Government. And last May, 12th of May, in this House I spoke great length on why we had to dismiss Shri Barnala's Government, why we came to the conclusions that Shri Barnala and his Government had lost the will to fight terrorism. I traced the events from the 26th of January 1987 up to the 11th of May, 1987 and said that in a situation like this we would be failing the nation if we did not take that step. I said, we undertook this responsibility with humility but no trepidation. We undertook this responsibility not quite knowing what the future contains. But we did so because that was the only step which can save, perhaps, the integrity and the unity of this nation.

We have had some success, as I will try to establish while participating in the main debate. There have been setbacks. We have never said, I have never said, that a solution to the problem in Punjab can be achieved through policemen. The policemen are not going to bring normalcy and peace to Punjab. The solution has to be a political solution. But in the situation that we find ourselves in Punjab today while you explore new political avenues, while you look for new political initiatives, is it not the duty of the Government to fight terrorism?

Someone quoted Mr. Satpal Dang's article. I stand by every word of the last paragraph of that. How many of you stand by the every word of that last paragraph? You have to break the back of terrorism before any political initiative can make progress. You say, don't give powers to

the police. What do we fight terrorism with? We swear by the rule of law. What is the rule of law unless you clothe your police with sufficient legal powers? What do we fight them with? Is it with bare hands, empty words, rhetoric? What do we fight them with? We have to fight with them with laws and powers and we are giving them to the police.

Sir, I was surprised. Honourable Member, Mr. Jaswant Singh would say "don't give powers to the police." Honourable Member, Mr. Vajpayee says "send the Army." The contradiction between these two positions is so apparent; why deny powers to the police but yet take the extreme step of sending the Army? What will the Army fight with? There has to be a certain amount of legal powers and while I participate in the debate I, will explain why we are taking powers which seem unusual. Because the situation is unusual, because the situation is extraordinary.

Sir, hon. Member, Mr. Jaswant Singh spoke about the established philosophy of the criminal jurisprudence in India. Who established it? Who wrote section 25 of the Indian Evidence Act? Not you, not I, not any Indian. Sir Fitz James Stephen in 1872 said that the Indian policeman is untrustworthy. Do you want to live with that kind of slur for 115 years and more? Why do you say that the Indian policeman will be always untrustworthy. We are making careful departure, a graduated response to an extraordinary situation and I will explain why the sections that we have added are not opposed to any philosophy of jurisprudence, why they are necessary if the criminal justice system which stands paralysed in Punjab today must be revived.

Sir, these sections have been drafted, I may say, crafted, with great care. In fact, it is not easy for anyone who is a lawyer, it is not easy for anyone who believes in the Anglo-American system of jurisprudence, to accept these provisions. It is not with an easy conscience that one brings these provisions. It is with a very heavy heart that one makes these provisions. But why do we make them? We make them because the situation is so grave and so grim in Punjab. The consolation is, that it is a temporary law. The consolation is that it will apply only to one kind of offence, namely, terrorist offences. The consolation is that crimes will be tried by special courts, designated courts, where the Presiding Officer will be chosen carefully by the Chief Justice of a High Court. The consolation is that the appeal will lie on facts and law to the Supreme Court. The consolation is that these powers are vested in high police officers and we have built around them a large number of safeguards. Please tell me what more safeguards you want and I am willing to build them into the rules. I am not against safeguards. In fact, I want more safeguards to be built into it. In the other House, one of the hon. Members made a very valuable suggestion about one more safeguard and I readily accepted it. I said yes, we will write it into the rules. Please tell me what more safeguards you want. But let us not take positions which are dictated by our political philosophies. The fight against terrorism is not for the faint-hearted, the fight against terrorism should not be made an issue of day-to-day politics. It is a battle which we have to win decisively. Otherwise, the integrity, the unity, the policy of this country will, once and for all be destroyed. That is why. Sir, we bring this Bill. Sir, I commend the Bill to the Hon'ble House and seek the support of the hon. Members.

The questions were proposed.

SHRI SUKOMAL SEN: Mr. Vice-Chairman, Sir, from my party, I oppose both these Ordnances and the Bills. Since these Amendment Bills are related to the situation in Punjab, I will have to make some comments

[Shri Sukomal Sen]

on the present situation in Punjab and the manner in which the Government is trying to handle the situation. Sir, I have listened very attentively to what Mr. Chidambaram said in reply to Mr. Atal Bihari Vajpayee and Mr. Jaswant Singh. But I could not be convinced that these two Bills, if enacted, will help, in any way, in solving the Punjab problem or as Mr. Chidambaram has said, if I am correct, that Punjab police force stands paralysed. (*Interruptions*).

SHRI P. CHIDAMBARAM: I said, the criminal justice system stands paralysed and not the police force.

SHRI SUKOMAL SEN: I stand corrected. I do not know how these amendments are going to strengthen the same criminal justice system as Mr. Chidambaram has said here. Sir, when on previous occasions, Punjab situation was discussed, from our side, we made very clear our point of view in regard to Punjab because we firmly believe that what is happening in Punjab, the situation should be tackled mainly on the political level. We did not say that administrative or police measures are not necessary. These are very much necessary. When terrorism is there, to fight terrorism, the administration and the police forces have to be geared up and they have to be deployed in a proper manner to fight terrorism. But the main point is the terrorism that is happening in Punjab with political slogans, whether you are going to fight it politically or not and whether these amendments, if enacted, are sufficient to cope with the situation. When the Barnala Government was dismissed in May 1987 most uncermoniously, we vigorously protested against it because during the seven months' rule of the Barnala Government, not that they adhieved everything, not that they were free from all lacunae, all loopholes, all defects or deficiencies, defects were there, deficiencies were there but we believed that it is a Government which can tackle the situation. The situation cannot be tackled from Delhi. The Government is needed at Punjab, the Government elected by the people of Punjab that Government is necessary to function and to tackle the situation. But all of us know how, most unceremoniously, the Government was dismissed. We said repeatedly that to fight terrorism, people's cooperation and initiative is necessary. People should be roused to fight the terrorists. Now, what is happening? Despite your CRPF and other para-military forces' presence there, despite all these draconian acts, innocent people are being killed, families are being wiped out and during the massacre, at the moment of massacre and even after a few hours of massacre, none of the police or CRPF personnel are found to be near the scene. Things happened like that. Otherwise, even when the family members of Shri Buta Singh were killed, where was the police force and where were the intelligence agencies? So, until these things are tackled, you cannot do justice to Punjab situation. Now, Sir, I revert back to my earlier point. When the Barnala Government was dismissed, at that time, it was a moment when the different political parties, including Congress(I) were emphasising that all parties including the ruling party should come together to fight terrorists and people should be roused. You have seen, Sir, that at the initiative of different parties, a convention took place. Mr. Narasimha Rao went there and addressed the convention and extended full support on behalf of the Government and the rulig party. The people were roused. People came on the streets and a confidence was being instilled in the people that terrorism had to be fought and not surrendered to. At that time, the Government was dismissed. For what? For the narrow political ends of the ruling party and for temporary electoral gains.

[**The Deputy Chairman** in the Chair.]

Now what happens? There are figures to show how the situation has been during the last three and a half months of President's Rule. Has the Government made any improvement, even by an inch? Now, I am quoting your figures, Mr. Chidambaram. These are not my figures. During the period 1-10-1985 to 11-5-1987, during Mr. Barnala's rule, 816 persons were killed in Punjab. What happened during the last about three months of President's rule? 560 persons were killed. What is the proportion? It means proportionately, a much higher number of persons were killed durnig Presidents' rule than during the Barnala Government rule. Even if one man is killed, it is tragic. I do not say that killing of 816 persons is nothing. No. Even if one man is killed, it is tremendous tragedy to human beings. But during President's rule, things could not be improved even an inch. They are worsening. What happened to bus passengers? Now, it is not confined to Punjab. Madam, it is spilling over to other areas. In Haryana bus passengers were killed and in Delhi a number of important persons were killed. They threatened children. They threatened that the children in schools will be killed. Now what is happening in Delhi schools? Fifty per cent of the students are not attending schools. Parents are not allowing their children to go to school. Nobody knows what will happen to them. This is the situation that has developed during the three and a half months of President's rule.

After dismissing the Barnala Government, you resorted to certain dubious measures. You introduced one Jain Muni to enter the Golden Temple and talk to Darshan Singh. It is reported that you were inclined to have a dialogue with the terrorists and extremists. You sent feelers to them. You dismissed the Barnala Government, the moderates, and wanted to tackle the situation and then you tried to send feelers to the terrorists. Now, what is the result? The entire Golden Temple is handed over to the terrorists; the Akal Takht is handed over to them. Even people like Darshan Singh have left. They have gone into hibernation. This is the situation that has been created by you, the Central Government, during Presidents' rule. Now you say that if these Bills are passed. if the Amendments are passed, criminal justice will be strengthened and you will be in a position to tackle the situation. I feel you are entirely wrong; again you are wrong.

Madam, firstly about this amendment of the NSA. From the very beginning we have objected to the principle of preventive detention. Unfortunately, since the dawn of Independence, the Congress Government is taking shelter under the Preventive Detention Act. You enacted the Security Act, the D.I. Rules, the the MISA, the ESMA and now, the NSA. Now it is made more stringent relating to the Punjab situation. You say that India is the biggest democracy in the world and you are boasting of this democracy. You are making draconian laws; you are assuming diabolical powers, to meet any challenge and you boast of yourselves as democratic and you say that the country is a democratic country. Madam, from our party we have already opposed the principle of preventive detention. Even now I strongly oppose it. In the Constitution under Article 22 although they have provided for personal liberty, at the same time, unfortunately the Constitution has also mentioned abou preventive detention. Now you are resorting to that provision. Perhaps when the Constituion was being framed, some of you who were there in the Constituent Assembly felt that a situation would arise in future when in the name of democracy preventive detention would have to be applied to suppres people's movement. Now, coming back to NSA,

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when in 1980 this Bill was introduced in Parliament, at that time, so far as I remember, Mr. Zail Singh was the Home Minister, and he was on record categorically saying that NSA would never be used against any trade union worker, against any trade union movement, against any political worker or worker involved in democratic movement, that it would be used against only anti-social elements and criminals. I would like to ask Mr. Chidambaram what the record has been since then, since 1980. How many criminals have been nabbed under this Act? How many offenders have been nabbed under this Act? On the contrary, it is our experience, political workers from the Opposition, trade union workers, our people, have been nabbed under this Act. A strike takes place. Immediately you apply NSA and arrest the people. This is what is happening in India. You assume suchdraconian powers that those powers can be applied against democratic movement, against legal trade union movement. You have done it and you are doing it. MISA was applied likewise. ESMA was applied likewise. Security Act was applied likewise. So, I do not think this Act is going to be any different; rather it is going to give a burial to whatever remnants of democracy we have in our country. Now, how will this special provision of 14A be used? It was strick down by the Punjab High Court. Mr. Chidambaram, while replying to the debate in Lok Sabha, made a very gleeful statement, a self-complacent statement, that in Punjab during the period ending 31-5-1987 from the date of commencement of the Act 1312 detention orders were made under this Act. And you say 703 prisoners were released *suo motu* by the State Government, 406 were released by the Advisory Board, 45 were released by the courts. Now, what is the conclusion? The total released comes to 1154 out of 1312. It means in the case of 1154 out of 1312 detentions afterwards it was found by the Government, by the Advisory Board and the courts that these people were innocent; it means only 158 were tetained out of...

SHRI P. CHIDAMBARAM: If you are quoting me, please quote the whole paragraph. The last sentence is not what I said. You must tell the House where the quotation ends. You should give the whole quotation.

SHRI SUKOMAL SEN: The calculation is my addition...

SHRI P. CHIDAMBARAM: If my learned friend would yield a minute, please quote the entire paragraph. The criticism was that NSA was being used in Punjab indiscriminately, that people are being put in detention for long periods of time, that the Advisory Board merely says 'yes' to whatever the Government says, that the courts say 'yes' to whatever the Government says, that there is no independent application of mind. That was the criticism in the Lok Sabha, if you will read the earlier paragrph. Then, I said, that

3.00 P.M. is not correct. It is not as though nobody applies his mind. It is true that the detention orders are made by the District Magistrate. But as every level there is application of mind to find out whether the persons should coninue to remain in detention. I gave figures to show how the State Governments *suo motu* released more than 50 per cent of the people. When the report is sent to the State Government on the Advisory Board, after looking into the matter, they say that he need not continue to be kept under detention. In a very small number of cases only the courts have struck down the orders. I, therefore, said that there is evidence to show hat it is incorrect to say that evberybody in the State administration applies his mind mechanically. There are very responsible people in resposible positions who will apply their minds and if they feel that the material does not justify continued

detention—there might have been justification for the initial detention—the State Government, the Advisory Board and the Courts do release people. That is the whole paragraph. But you pick out one or two sentences and you do not let the House know where the quotation ends.

SHRI SUKOMAL SEN: Madam, I have heard his statement. It again that they arrested 1,312 people. Al- justifies my contention. It means though they arrested 1,312 people...

SHRI P. CHIDAMBARAM: That is only initial detention.

SHRI SUKOMAL SEN: Although they arrested 1,312 people, ultimately, only 158 people have been detained, have been kept under detention.

THE DEPUTY CHAIRMAN: Mr. Sen, you can continue afterwards. Now, there is a statement to be made by the Prime Minister.

STATEMENT BY PRIME MINISTER

Regarding Allocation of a Mine Site to India in the Central Indian Ocean by the Preparatory Commission of the International Seabed Authority (PREPCOM)

THE PRIME MINISTER (SHRI RAJIV GANDHI): Madam Deputy Chairman.

I rise to inform this House of an important development during the 40th anniversary celebarations of our Independence. On August 17, 1987 we have secured for our country a unique position. Our application for registration and allocation of a mine site in the Central Indian Ocean was unanimously accepted by the Preparatory Commission of the International Seabed Authority-PREPCOM-a body of the United Nations.

Hon'ble Members will recall that the Third U.N. Conference on the Law of the Sea accorded India, Pioneer Status along with threee other countries in deep seabed exploration in recognition of their achievements in seabed surveys, research and development. India is the only developing country to be so recognised. This was an important landmark.

The decision of the PREPCOM, to register India's claim first and earlier than that of any other country and the allocation of an area of 150,000 (one hundred and fifty thousand) square kilometres for further exploration and development is yet another landmark. This decision entitles us to explore and develop the resources of the deep seabed, which contain rich deposits of polymetallic nodules and which are a source of important minerals like copper cobalt, nickel and manganese. However, commercial exploitation of these resources will take place only in the future after we have developed or acquired adequate technology and after the U.N. Convention on the Law of the Sea comes into force.

It is a matter of great satisfaction that the Prepatory Commission has determined that similar claims of other States, viz. France, Japan and USSR would be registered towards end of this year. This will pave the way for universal participation of developed and developing countries in the new legal regime for ocean space.

The registration of our claim for a deep seabed mine site indeed provides a concrete indication of indigenous scientific capabilities and achievements. It is yet another step forward in our quest for self reliance.

I am sure this House will agree to place on record our appreciation for the excellent work done by our scientists and engineers who have taken up the challenging task to explore new horizons of science to unravel the mysteries of the ocean.

THE DEPUTY CHAIRMAN: Yes, Mr. Poddar, you wanted some clarifications.